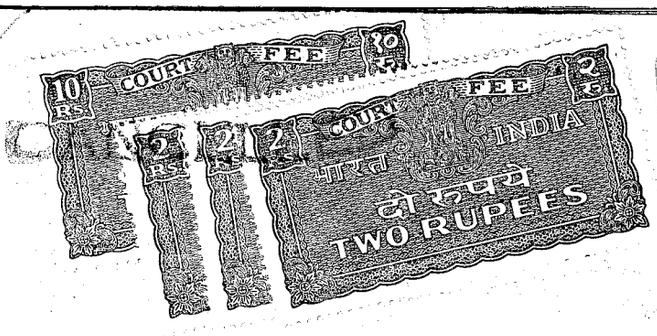

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CF. 161 (02)

IN THE HIGH COURT OF JUDICATURE AT JABALPUR,(M.P.)

CRIMINAL REVISION No. 830 OF 2000

APPLICANTS : 1.Smt.Kala Devi Agrawal,aged about 52 years, wife of Shri R.S.Agrawal

2.Ashok Agrawal,aged about 30 years, son of Shri R.S.Agrawal

Both are resident of Transport Nagar, Korba,District: Korba,Civil,District: Bilaspur,(M.P.)

-Vs.-

NON-APPLICANT : State of Madhya Pradesh through Police Station Economic Offences Bureau,Bhopal Unit Raipur,District:Raipur,(M.P.)

CRIMINAL REVISION UNDER SECTION 397/401 OF THE CODE OF CRIMINAL PROCEDURE.

Copy of M.C. Revision

CLERK
Advocate (Govt.)

9-6-2000

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

(Cr.Rev.No. 830/2000

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

28-04-2006

Shri Avinash Mishra, learned counsel for the applicants.

Shri Ashish Shukla, Govt. Advocate for the State.

The Revision is finally heard today.

The applicants are aggrieved by the order dated 11-10-1999 passed in M.J.C.No.19/1999 by the Special Judge, Bilaspur whereby the application for releasing gold & silver ornaments seized during investigation of the offence under Section 13 (1)(E), Prevention of Corruption Act., 1988 was rejected.

Learned counsel appearing on behalf of the applicants argued that in the year 1994, Economic Offences Wing, Bhopal, Unit-Raipur had seized Gold & Silver ornaments from the applicant No. 1 Smt. Kala Devi Agrawal during a raid conducted on the house of Shri R.S.Agrawal, husband of applicant No.1. It was also argued that till date the challan has not been filed by the Economic Offences Wing, Raipur Unit against Shri R.S.Agrawal. It was also contended that in Criminal Revision No.720/1995 vide order dated 27-09-1995 Hon'ble High Court of Madhya Pradesh had given a specific direction that the State should file the charge sheet within a period of 4 months reserving the liberty to the applicant to repeat the application for release of the property on supurdnama. Since a challan has not been filed within the stipulated period, the impugned order refusing to grant the custody of the Gold & Silver ornaments to the applicant No.1, deserves to be set aside.

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(19)

आदेश पत्रक

मामला क्रमांक Cr.Rev. 830/2000 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

On the other hand, Shri Ashish Shukla, Govt. Advocate has opposed the application, though formally.

Having considered rival submissions, I am of the considered opinion that this revision deserves to be allowed. It is seen that vide order dated 27-09-1995 Hon'ble High Court of Madhya Pradesh had directed that the charge sheet should be filed within a period of 4 months, failing which the prayer of the applicant for release of the property on her supurdnama would be considered by the trial Court. In **Sunderbhai Ambalal Desai Vs. State of Gujrat with C.M. Mudaliar Vs. State of Gujrat** reported in **2002-A.I.R.-S.C.W.-5301**, the Apex Court held that powers under Section-451 of Cr.P.C. should be exercised expeditiously and judiciously and the articles should not be kept for a long time at the police station. In the present case, in view of the direction issued in Criminal Revision No.720/1995, upon failure of the E.O.W. to file charge sheet within a stipulated period, the learned trial Judge ought to have granted the custody of the gold & silver ornaments seized in Crime Number-51/1994 under Section-13 (I) & (II), Prevention of Corruption Act., 1988 from the house of Shri R.S.Agrawal. No charge sheet has been filed, even though a period of more than 11 years has now elapsed. The applicants are entitled to custody of the Gold & Silver ornaments seized in the aforesaid Crime Number-51/1994. The impugned order is thus, manifestly erroneous and contrary to law.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(20)

आदेश पत्रक

मामला क्रमांक Cr. Rev. 830/2000 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In this view of the matter, this Criminal Revision is allowed. Impugned order dated 11-10-1999 passed by the Special Judge, Bilaspur is set aside. It is directed that the Golden & Silver ornaments seized from the house of Shri R.S.Agrawal shall be returned to the applicants on their executing a supurdnama for Rs. 3 Lakhs to the satisfaction of Special Judge, Bilaspur. **Sd/-** **Dilip Raosaheb Deshmukh** **Judge**	—3—